UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1997/250*
1 April 1997
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 24 MARCH 1997 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 22 March 1997 addressed to you by Mr. Mohammed Said Al-Sahaf, Minister for Foreign Affairs of the Republic of Iraq. It concerns the serious repercussions the sanctions have had on the humanitarian situation in Iraq and testimony from United Nations agencies, international humanitarian bodies and non-governmental organizations concerning the death and suffering the sanctions are bringing to the civilian population and, in particular, to children. This is manifestly incompatible with the purposes and principles of the United Nations and the rules and norms of international humanitarian law.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Permanent Representative

* Reissued for technical reasons.

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Annex

Letter dated 22 March 1997 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General

1. The serious consequences of the sanctions and the embargo imposed on Iraq have aroused widespread international concern in official, political, legal and civic circles. This concern has found expression at the meetings, seminars and study groups held in various parts of the world that have considered the grievous suffering caused by the sanctions and by the embargo and that have addressed urgent appeals to the United Nations and the international community as a whole for action to lift the sanctions imposed on the Iraqi people and to enable that people, through the use of its own resources and capacities, to secure the provision of its basic civilian needs.

2. I am pleased to transmit to you herewith the text of the verdict reached by the International Tribunal on the War Crimes and Crimes against Humanity Committed by the Security Council against Iraq, meeting at Madrid on 16 and 17 November 1996 (see enclosure). Many international personalities in the legal, judicial and political fields participated in the work of the Tribunal, and it considered evidence and documents and heard the testimony of eyewitnesses who included politicians, lawyers, physicians and researchers from all parts of the world who had visited Iraq and seen at first hand living examples of the human suffering being endured by the people of Iraq owing to the insistence of a well-known influential minority in the Security Council on maintaining the firm grip of sanctions in a manner manifestly incompatible with the purposes and principles of the United Nations and the norms and provisions of international humanitarian law.

3. While all the relevant international covenants, conventions and instruments, and pre-eminently the Charter of the United Nations, "reaffirm faith in fundamental human rights [and] in the dignity ... of the human person", the measures being taken against the people of Iraq and the policies and practices that seek to starve it and deprive it of its most elementary and basic humanitarian needs rob these covenants of all humanitarian substance.

In his report entitled "Supplement to an Agenda for Peace", the Secretary-General of the United Nations states as follows:

> "Sanctions, as is generally recognized, are a blunt instrument. They raise the ethical question of whether suffering inflicted on vulnerable groups in the target country is a legitimate means of exerting pressure on political leaders ... . Sanctions also always have unintended or unwanted effects. They can complicate the work of humanitarian agencies by denying them certain categories of supplies and by obliging them to go through arduous procedures to obtain the necessary exemptions. They can conflict with the development objectives of the Organization and do long-term damage to the productive capacity of the target country." (A/50/60-S/1995/1, para. 70.)

In this connection, I should like to recall the report to the General Assembly at its fifty-first session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization (A/51/33). The report considers the sanctions regime in the framework of the Committee's discussion of the question of assistance to third States affected by the application of sanctions. In that context, there was a thorough discussion of the basic elements to be taken into account in connection with sanctions and those required by a true understanding of the provisions of the Charter of the United Nations. The ideas contained in the working paper introduced by the representative of the Russian Federation at the 3rd meeting of the Committee's Working Group, held on 23 February 1996 (A/51/33, para. 42), met with wide acceptance. It was made clear in the discussions that the imposition of sanctions should always be an exceptional measure to be used by the United Nations in special cases in accordance with its Charter. In order to be justified and effective, the sanctions must adhere strictly to the provisions of the Charter of the United Nations. They should be based not on political expediency but on a solid foundation of international law and should be implemented as prescribed by the Charter, in accordance with the principles of justice and international law. They should not serve individual or group interests and should be part of the search for a peaceful settlement. They should reflect the strategic goals of the international community and not merely those of a few of its members, and account should be taken of the physical price of such actions in terms of death and suffering among the civilian population and the destruction of material values.

4. It was the experience forced on the people of Iraq by the imposition of sanctions that prompted the careful assessment made by the Secretary-General in his position paper, which he has reaffirmed on numerous occasions in his reports to the General Assembly on the work of the Organization. In paragraph 821 of the most recent such report (A/51/1) he states that the humanitarian assistance provided to Iraq:

> " ... remained significantly below the requirements resulting from the difficulties faced by children, women, elderly people and an increasing number of indigent families in Iraq. Several United Nations agencies operating in the field reported a continued deterioration of health and nutritional conditions, with an estimated 4 million people, the majority of them children under five, being in danger of severe physical and mental damage as a result of malnutrition."

5. This alarming number of 4 million Iraqi children under the age of five whose lives are in jeopardy was confirmed in the joint appeal launched by the Department of Humanitarian Affairs of the United Nations Secretariat, UNICEF and the World Food Programme on 26 October 1996, which stressed that there was a need to meet the urgent basic needs of the Iraqi people given that rates of malnutrition were rising among children and women in particular and that water contamination and the deteriorating level of health services had contributed to rising mortality rates owing to transmissible and contagious diseases.

In a statement made at Geneva on 4 October 1996, the representative of UNICEF in Baghdad said that 4,500 Iraqi children under five were dying every month from the consequences of malnutrition and treatable diseases. The great

shortage of medical supplies, the breakdown of machinery, the lack of laboratory equipment, the restricted quantities of pharmaceuticals and antiseptics available and the limited nature of other health services because of the sanctions and the absence of the financial resources necessary to meet such needs had made it difficult to cope with childhood diseases and to save the lives of children despite the exceptional efforts being made by Iraqi health agencies and the assistance that some humanitarian organizations and United Nations agencies were trying to provide in order to remedy the deteriorating health and nutritional situation of children, expectant mothers and older people, society's vulnerable groups.

6. The March 1996 World Health Organization report entitled "The health conditions of the population in Iraq since the Gulf crisis" (WHO/EHA/96.1) concludes that:

> "The vast majority of the country's population has been on a semi-starvation diet for years. This tragic situation has tremendous implications on the health status of the population and on their quality of life, not only for the present generation, but for the future generation as well."

The health situation in Iraq is further exacerbated by the declining standard of health services owing to the great shortage of medical equipment and the lack of spare parts and items required for purposes of maintenance.

7. To supplement the testimony of United Nations agencies, Iraq has also been visited by a number of missions and non-governmental humanitarian organizations, which have incorporated their on-the-spot testimony into numerous reports. The report published by the New York-based Center for Economic and Social Rights in May 1996 after a visit to Iraq by some of its members may be cited purely as one example among many. The team notes that:

> "The sanctions have disrupted health care services in all parts of Iraq. Hospitals and health centers cannot adequately respond to the increased levels in morbidity seen in the population. Inadequate health services, combined with the rise in unsanitary living conditions, has [sic] led to sharply increased prevalence of infectious, parasitic and water-borne diseases."

8. The team further notes the difficulties experienced by Iraqi hospitals owing to the war and the ongoing embargo, which has made it impossible for Iraq to obtain the spare parts necessary to maintain medical equipment and provide minimum health services to patients. The team states that:

> "Shortages in electricity have affected hospital services, especially in the summer when demand is highest. Power fluctuations have destroyed sensitive medical equipment.
>
> "...
>
> "Serious shortages of oxygen affect all hospitals. Domestic production falls well short of the need, so hospitals must ration the

available oxygen supply. The team witnessed oxygen masks being alternated between patients ... ."

9. The reality reflected by the testimony of United Nations officials, including that of the Secretary-General of the United Nations himself, and the attestations of humanitarian organizations and research centres calls for the unqualified condemnation of the fact that the maintenance of the sanctions against the people of Iraq for more than six years represents a flagrant violation of the principles of human rights and, in particular, of the Universal Declaration of Human Rights, of paragraph 31 of the Vienna Declaration and Programme of Action adopted by the 1993 World Conference on Human Rights, which affirms that food should not be used as a tool for political pressure, and of articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights, which recognize:

> "... the right of everyone to the enjoyment of the highest attainable standard of physical and mental health[, ... to] the improvement of all aspects of environmental and industrial [hygiene, and to] the creation of conditions which would assure to all medical service and medical attention in the event of sickness."

10. The psychological and social health situation of women in Iraq, given the shortage of food and medicine and the economic and social difficulties caused by the sanctions, has placed heavy burdens on the shoulders of Iraqi women that have affected their lives and their social and human options. The Beijing Declaration adopted by the 1995 Fourth World Conference on Women affirms the world's commitment to uphold and protect the rights of women and, in its paragraph 145 (i), it calls upon Governments and international and regional organizations to "Take measures in accordance with international law with a view to alleviating the negative impact of economic sanctions on women and children". At the same time, the delegation of the Committee on Foreign Affairs of the French National Assembly that visited Iraq between 16 and 23 January 1996 under the leadership of former Minister for Foreign Affairs Mr. Bernard Raymond reports that the strongest evidence of the seriousness of the situation in Iraq was provided in the delegation's meetings with representatives of United Nations agencies operating in Iraq, whose statistics indicated an alarming rise in child mortality, a fall in the standard of living and the increased severity of epidemics and of malnutrition. All of those factors reflected the impact of the embargo and the plight in which a developing country could find itself, and the members of the delegation saw women in bare feet and black garments carrying enormous weights on their heads.

11. In connection with Security Council resolution 986 (1995), the oil-for-food-and-medicine resolution, the Subcommission on Prevention of Discrimination and Protection of Minorities at its forth-eighth session, in its decision 1996/107 on the humanitarian situation in Iraq, adopted without a vote, expresses its concern at:

> "... reliable information according to which children will continue to die after the agreement [between Iraq and the United Nations on the implementation of resolution 986 (1995)], since it does not correspond to

the minimum needs, in particular for food and medicines, of the civilian population".

Resolution 986 (1995) is a temporary and feeble measure, and it should not be characterized as otherwise. Despite the fact that the resolution was adopted by a United Nations forum, Iraq has been making sustained efforts with the Secretariat of the United Nations to secure its actual implementation. Now, more than 10 months after the agreement between the two sides, no medicines, food or medical supplies have reached Iraq because of constant interference by the United States Administration in order to impede and hinder the work of the Iraq Sanctions Committee and delay the delivery of foodstuffs and medical supplies to Iraq. In the meantime, the United Nations has begun to deduct 30 per cent of the proceeds of the sale of Iraqi oil for the United Nations Compensation Fund and in order to pay the expenses of the Special Commission and cover the exorbitant costs represented by expenditures on United Nations officials, observers and others entrusted with supervising the distribution of the foodstuffs and medicines that have yet to arrive. It should be noted that, in her statement at the meeting at which resolution 986 (1995) was adopted, the representative of the United States said that the resolution was "technical, not political" (S/PV.3519). However, all the positions taken by the United States in the Sanctions Committee and all of its practices there have proved to be of a political character in so far as they deal with the Memorandum of Understanding and have had the aim of creating all manner of excuses and pretexts to delay the actual implementation of the Memorandum so as to prevent the people of Iraq from obtaining food and medicine. It is clear that, in adopting this position, the United States of America is proceeding on the basis of political considerations that bear no relation to the humanitarian situation of the people of Iraq. This is manifestly incompatible with the Rome Declaration on World Food Security adopted by the World Food Summit on 13 November 1996, in which the participants state that:

> "Food should not be used as an instrument for political and economic pressure. We reaffirm ... the necessity of refraining from unilateral measures, not in accordance with the international law and the Charter of the United Nations and that endanger food security." [sic]

12. Article 1, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights provides that:

> "All peoples may ... freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, ... In no case may a people be deprived of its own means of subsistence."

Given this truth - and in the light of the demolition of Iraq's infrastructure in the aggression against it, the destruction of electric power stations, water purification plants, factories and development-related facilities and the maintenance of the sanctions for more than six years - to forbid Iraq to use its natural resources to finance the provision of its humanitarian needs, despite the removal of any justification for the sanctions by Iraq's discharge of all its obligations under the relevant Security Council resolutions, is to prevent the people of Iraq from making use of its own

resources to meet its living requirements. No international assistance or temporary solutions can meet the basic humanitarian needs of more than 22 million people.

13. This situation confronts the Security Council with its responsibilities as they relate to honouring its own corresponding obligations and lifting the sanctions imposed on the Iraqi people forthwith. The sanctions do not accord with the provisions of the Charter of the United Nations but came into being and are maintained on the basis of blatant political expediency without any well-established basis in international law, and they are incompatible with the principles of justice and the provisions and norms of international law. The decision to impose sanctions on Iraq must not become an endless war of starvation or the sanitized murder of an entire people. However the case may be, the sanctions imposed lost all legal justification once their maintenance became a policy of exacting vengeance for parties known to you whose objective is to annihilate an entire people and deprive it of its right to life.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs

Enclosure

VERDICT OF THE INTERNATIONAL COURT Seif Zuhair and Bushra Ibrahim Ali FOR CRIMES AGAINST HUMANITY COMMITTED BY THE UN SECURITY COUNCIL ON IRAQ

The members of the International Court on Crimes Against Humanity Committed by the UN Security Council on Iraq, having today examined the accusation formulated by Ramsey Clark (former Attorney General of the United States of America and President of the *International Action Center*) against the United Nations (UN) Security Council and its permanent members, have met to deliberate on the evidence brought forward in the public hearing, namely:

The testimonies and documents presented by Peter L. Pellet (UN FAO Team Manager, University of Massachusetts, USA), Khaldun Lutfi (President of the *Iraqi Red Crescent*), Siegwart-Horst Günther (President of the *International Yellow Cross*, Austria), Margret Fakhouri (Pediatrician, Germany/Jordan) regarding the state of public health amongst the Iraqi people and, specifically, the incidence of health problems amongst children, as well as the effects of non-conventional weapons used during the war;

The testimonies and documents presented by Sarah Zaidi (Member of UN FAO team, Science Director of the *Centre for Economic and Social Rights*, USA/Pakistan), Tha'era Mohamed (Doctor, Vice-President of the *General Federation of Iraqi Women*), María Durán (Lawyer, *Themis Association of Women Lawyers*, Spain), on socio-economic indicators of the embargo and its effects for women;

The testimonies and documents presented by Joaquín Córdoba Zoilo (teacher of Ancient History at A.U.M., Spain) on the consequences of the sanctions on the historical and cultural Patrimony of Humankind in Iraq;

The testimonies and documents presented by Saad Hamid (Jurist, *Centre for Economic and Social Rights*, Jordan), Patrick Brunot (Lawyer, Paris Appeal Court, Professor in International Law, *Paris High International Studies School*, France), Terrance Duffy (Lecturer in International Law, Director of the *International Direct Democracy Research Association*, Northern Ireland), Akram Witri (Lecturer in International Law, University of Baghdad) on the regime of sanctions against Iraq and International Law.

The accused failed to appear. The UN Security Council sent its apologies via the UN Office in Madrid, and alleged its reiterated concern for the civil society affected by the embargo and the humanitarian situation in Iraq, which was reflected in its 1991 Resolutions nos. 776 and 712. Resolution 712 drew attention to the deteriorating levels of nutrition and health amongst the Iraqi population. The UN also stated that the Directors of UNICEF and the World Food Programme, and the Under-Secretary for Humanitarian Affairs have launched an appeal to collect urgent financial contributions to the humanitarian aid

programme for Iraq. These statements were submitted in a fax from the UN Office in Madrid, dated 31 October 1996.

POINTS OF EVIDENCE

ONE.- From 6 August 1990 to date, the UN Security Council, under the hegemony of the United States, has adopted a form of conduct oriented towards imposing, maintaining and applying extreme economic sanctions and a strict embargo on the people of Iraq in order to harm the entire population, killing its weaker members (children of all ages, the elderly, chronically ill and pregnant and nursing women), and depriving them of medicine, drinking water, food and other essential elements.

TWO.- The accused have obstructed Justice and corrupted the operation of the UN by all kinds of coercion, systematically using threats, manipulation and disinformation to silence protests and prevent the sanctions against Iraq from being lifted, despite the reports issued over the last five years by the main UN agencies and various humanitarian and pacifist organisations, which have repeatedly denounced the high death rate and suffering of the Iraqi people.

THREE.- The accused have perpetrated criminal attacks against fertiliser and insecticide chemical factories, warehouses of agricultural and food products, oil storage tanks, etc., exposing the Iraqi population to chemical contamination and radiation, and causing death, disease and permanent injuries.

FOUR.- The accused have hidden the existence and use of a wide range of illegal weapons, including rockets and missiles containing impoverished uranium, which have contaminated the soil and groundwaters with seriously hazardous, sometimes lethal radiation that will affect the population for thousands of years.

FIVE.- The accused have coercively enforced illegal levies and payments and have institutionalised disproportionate economic reparations that ignore the unjust damages inflicted on Iraq, which mean that more than half the value of all the oil sales made from Iraq must be used to pay the sanctions, giving rise to hunger, malnutrition and lack of elementary resources to care for the needs of the most vulnerable sectors of the population.

SIX.- The accused, under a sectarian policy of hiding and disguising the facts, have manipulated, controlled and given misleading information on the failure to meet the UN's own requirements and on the suffering of the Iraqi people, in order to propitiate the support or the ignorance of international public opinion regarding what is really being done.

SEVEN.- All the above has had an especially brutal effect on the most vulnerable, most unprotected sectors of the Iraqi people: its children, women and the elderly. Several reports from international UN agencies and humanitarian and pacifist organisations have drawn attention to the deaths of over

a million and a half people, of whom 750,000 were children below the age of five. These figures do not take into account the high rate of death at childbirth and the thousands of children born with congenital malformations. The situation of women has been set back drastically by brutal attacks on women's dignity and their physical and moral integrity.

EIGHT.- The accused have, by default, passiveness or complicity, propitiated the destruction and plundering of much of the historical, artistic, monumental and documentary wealth of the Iraqi nation, which belongs to Humankind as a whole.

LEGAL FUNDAMENTALS

ONE.- This Court considers itself to be supported by the legal and ethical legitimacy accorded to it by the reprobation of broad sectors of worldwide public opinion and the brutality of the UN Security Council against the Iraqi people. The Court deems that no power is authorised to act without Law or against the Law, taking advantage of the terrible, inexistent faculty to commit crimes with impunity. The UN Security Council has perpetrated atrocious crimes against the very principles of peace, freedom and justice that it is called upon to defend, violating fundamental UN declarations and resolutions and the moral and legal Code that constitutes the ethical minimum for international co-existence.

TWO.- The facts presented constitute evidence of the CRIME OF GENOCIDE, described and typified under the UN Convention of 9 December 1948. These facts have entailed, and continue to entail, the destruction of the Iraqi people, through the following acts:

- **First:** killing members of that population.

- **Second:** seriously injuring the physical and mental integrity of the Iraqi people.

- **Third:** Intentionally and conciously subjecting the Iraqi people to conditions of existence that lead to its destruction.

The Court considers that this crime of genocide may constitute a specific kind of INSTITUTIONAL TERRORISM perpetrated by the United Nations Security Council.

THREE.- The member States of the UN Security Council that have given support to the acts described are responsible, as AUTHORS, for the material execution, induction or cooperation needed in the above-mentioned crimes, and the crimes against humanity therein incorporated.

Those who, by ABETMENT or COMPLICITY, have decisively collaborated in committing or abetting such crimes, are also responsible.

FOUR.- The facts declared proven violate, amongst others, the following rules of INTERNATIONAL LAW approved by the

United Nations itself:

A.- The UNIVERSAL DECLARATION OF HUMAN RIGHTS, 10 December 1948;

B.- The INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, 19 December 1966;

C.- The CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN, 18 December 1979;

D.- The CHILD RIGHTS CONVENTION, 20 November 1989.

E.- The first additional Protocol to the 1977 GENEVA CONVENTION.

Given the above, this International Court CONDEMNS the accused, the United Nations Security Council and, especially, the Government of the United States of America, as responsible for the crimes described herein.

It also DEMANDS:

1.- Inmediate lifting of the sanctions imposed on the Iraqi people.

2.- Immediate withdrawal of all military forces and armaments accumulated since the war to exterminate Iraq.

3.- Compensation for the Iraqi people for all the damage caused.

In Madrid, Spain, November 17th. 1996

MEMBERS OF THE COURT

* Algeria:
  Ahmed Ben Bella (First President of Algeria, Vice-President of Bertrand Russell Court)
  Louisa Hannoun: (General Secretary of PTA)
* Austria:
  Hans Koechler (President of *International Progress Organization, IPO*)
* Egypt:
  Saber Mohamed Mahmoud Ammar (member of Permanent Boureau of *Arab Lawyer Union*)
* Italia:
  Domenico Gallo (former Senator, Judge in Rome Court, AMJDDH)
* Jordan:
  Tujan Faisal (MP)
  Husain Mujali (President of the Lawyers' College)
* Morocco:
  Mohamed Al-Basry (member of USPP)
* Palestine:
  Haider Abdel Shafi (Doctor, President of Palestinian Red Crescent, Palestinian Legislative Board)
  Raji Sourani (Lawyer, Director of *Palestinian Center for*

Human Rights)

*Spanish State:

Najib Abu-Warda (Teacher of Foreign Relations in Madrid Complutense University, member of Jerusalem Spanish-Palestinian Association)

Juan María Bandrés (Lawyer, President of *Spanish Center for Refugees Help*, CEAR)

Aurora Bilbao (Doctor, Professor in Basque Country University, President of IPPNW)

Marcelino Camacho (Sindicalist, former President of the Trade Union CCOO)

Pablo Castellano MP, Spokesman of United Left in the Justice Commission of Spanish Congress)

Francisco Doñate (Medicine Professor in Basque Country University)

Francisco Frutos (MP United Left and Federal Coordinator of the Communist Party, PCE)

Juan Francisco Martín Seco (Economist)

Pedro Martínez Montávez (Professor, M.A.U.)

Joaquín Navarro (Judge)

Carmen Pujol (Jurist, President of *Themis Association of Women Lawyers*)

Nicolás Redondo (Sindicalist, former General Secretary of the Trade Union UGT)

Francisco Rodríguez (MP Galician Nationalist Bloc (BNG) in the Spanish Congress)

Juan José Romeo Laguna (Judge at Sevilla County High Court and member of *Judges for Democracy*)

Javier Sádaba (Professor, M.A.U.)

Eloy Terrón (former President of *UNESCO Friends Club*, CAUM)

Endika Zulueta (Lawyer, *Lawyers' Free Union*)

* Turkey:

Türkkaya Ataöv (Professor of Foreign Relations in Ankara University).

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